

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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GREGORY GORAK

v.

Plaintiff,

ORDER

11-cv-130-bbc

JOHN PAQUIN, RICK RAEMISCH,  
RUSSELL BAUSCH and KAREN SOLOMAN,

Defendants.

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On May 9, 2011, the court reopened this case and granted plaintiff leave to proceed on his claim that defendants violated his right to due process by refusing to allow him to call witnesses at his December 2008 disciplinary hearing. On June 15, 2011, defendants answered plaintiff's complaint, raising various affirmative defenses. Now plaintiff has filed a response to the answer in which he replies to several factual statements made in the answer.

Plaintiff does not need to be concerned: although defendants have raised affirmative defenses in their answer as placeholders, they have not filed an actual motion to dismiss. Therefore, plaintiff does not need to reply to the answer. If defendants later file a motion to dismiss, then plaintiff will be allowed to respond to that motion. In the meantime, Rules 7(a) and 8(b)(6) of the Federal Rules of Civil Procedure work together to protect plaintiff from defendants' claims in the answer. Because of those rules, this court does not need plaintiff to reply to the answer; instead, the court automatically assumes that plaintiff has denied the factual statements and affirmative defenses raised in that answer.

Therefore, IT IS ORDERED that plaintiff's reply to the answer, dkt. 18, will be placed in the court's file but will not be considered.

Entered this 13<sup>th</sup> day of July, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge